

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

<b>CONSOLIDATED INDUSTRIES, LLC</b>	)	
<b>d/b/a WEATHER KING PORTABLE</b>	)	
<b>BUILDINGS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>No. 1:22-cv-01230-STA-jay</b>
<b>v.</b>	)	
	)	
<b>JESSE A. MAUPIN, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**PLAINTIFF’S MOTION TO RESET TRIAL DATE**

Plaintiff Consolidated Industries, LLC d/b/a Weather King Portable Buildings (“Weather King”) requests that the Court reset the trial date in this matter to allow participation by all of its members as well as its anticipated damages expert(s). As grounds for this motion, Weather King submits as follows.

1. “Whether to grant a motion to continue is within the broad discretion of the Court. Granting a continuance is only improper if the nonmoving party establishes actual prejudice. Trial judges necessarily require a great deal of latitude in scheduling trials, and broad discretion must be granted to trial courts on matters of continuances.” *Brown v. Bd. of Educ. of Shelby Cnty. Sch.*, No. 13-2586, 2014 WL 12887371, at \*1 (W.D. Tenn. Dec. 4, 2014) (cleaned up).

2. As part of the parties’ Amended Joint Motion to Amend First Amended Scheduling Order (ECF No. 129), the Court re-set the trial date in this matter for February 24, 2025 (ECF No. 131). Upon receipt of notice of the new trial setting, Weather King’s counsel emailed Weather King’s members and principal witnesses regarding the new setting to determine if there was a scheduling conflict. Two of Weather King’s principals, David Sullivan and Tim Boyd, are public

accountants, and for Mr. Sullivan (a will-call trial witness) in particular, the current trial setting falls during “tax season,” when he will be very busy with his accounting business. It would be very difficult (if not impossible) for Mr. Sullivan to both attend and assist in the trial of this matter as well as carry his professional burden of complying with tax preparation and filing obligations.

3. Additionally, Weather King anticipates designating and calling at trial a third-party public accountant to provide opinion testimony on Weather King’s damages. As with Mr. Sullivan, this witness will also be in the height of tax preparation and filing season in late February and early March. It will likewise be problematic for these witnesses to attend, assist, and testify at the trial of this matter during the current trial setting, which would prejudice Weather King.

4. So that Weather King may have a party and material witness attend and participate in the trial of this matter, and to allow Weather King’s anticipated damages expert(s) to also attend and participate in the trial of this matter, Weather King requests that the Court reset the trial date in this matter from the current setting beginning February 24, 2025, to a date after April 15, 2025. Plaintiffs’ representatives and counsel will make themselves available in the late April through June timeframe for any setting the Court has available.

5. As indicated below, Defendants oppose this motion. Defendants’ counsel did not respond to a specific inquiry regarding Defendants’ and counsel’s availability in the late April through June timeframe.

6. For these reasons, Plaintiff respectfully requests that the Court re-set the trial setting of this matter to a date after April 15, 2025.

Respectfully submitted,

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*Attorneys for Plaintiff*

**CERTIFICATE OF COUNSEL**

In accordance with Local Rule 7.2(a)(1)(B), I, counsel for Plaintiff, certify that the parties' counsel have conferred about the relief requested in this motion and that Defendants' counsel oppose the relief requested.

/s/ John H. Dollarhide  
John H. Dollarhide

**CERTIFICATE OF SERVICE**

I hereby certify that on April 8, 2024, I filed the foregoing with the Court using the ECF system, which will provide notice and a copy to counsel of record, including the following counsel for Defendants:

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